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7 **UNITED STATES DISTRICT COURT**  
8 **WESTERN DISTRICT OF WASHINGTON**  
9 **AT SEATTLE**

10 STATE OF WASHINGTON, et al.,

11 PLAINTIFFS,

12 v.

13 U.S. DEPARTMENT OF  
TRANSPORTATION et al.,

14 DEFENDANTS.

NO. 2:25-cv-00848

DECLARATION OF STATE OF  
ILLINOIS IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION

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DECLARATION OF STATE OF  
ILLINOIS IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION

ATTORNEY GENERAL OF WASHINGTON  
Environmental Protection Division  
800 Fifth Avenue STE 2000  
Seattle, WA 98104  
206-464-7744

1  
2 I, Elizabeth Irvin, declare under the penalty of perjury pursuant to 28 U.S.C. § 1746  
3 that the foregoing is true and correct:

4 1. I am a resident of the State of Illinois. I am over the age of 18 and have personal  
5 knowledge of all the facts stated herein, except to those matters stated upon information and  
6 belief; as to those matters, I believe them to be true. If called as a witness, I could and would  
7 testify competently to the matters set forth below.  
8

9 2. I am currently employed by the Illinois Department of Transportation (“IDOT”  
10 or “Department”) as Deputy Director of the Office of Planning and Programming.

11 3. As Deputy Director of the Office of Planning and Programming, I am  
12 responsible for overseeing the department’s sustainable initiatives, including implementing the  
13 National Electric Vehicle Infrastructure (“NEVI”) Formula Program.

14 4. IDOT’s operations are substantially reliant on federal funding, in particular the  
15 funding and programs established by the Infrastructure Investment and Jobs Act (“IIJA”). In  
16 total, federal funds represent approximately half of the funding for the Department’s capital  
17 funds, which IDOT uses to build, maintain, and modernize the State’s transportation  
18 infrastructure, including roads, bridges, bike and pedestrian facilities, and electric vehicle  
19 charging infrastructure. Much of this funding is formula funds that the department has relied  
20 upon for decades to maintain Illinois’ transportation system. IIJA included a significant  
21 increase in federal funds that are dedicated for newly established programs such as the NEVI  
22 Formula Program.  
23

24 5. IDOT is committed to achieving Illinois’ goal of reducing greenhouse gas  
25 emissions consistent with the United Nation Paris Agreement as established in Executive Order  
26

1 2019-06 signed by Governor Pritzker. IDOT's role in fulfilling this commitment involves  
 2 decreasing reliance on fossil fuels and accelerating the decarbonization of Illinois'  
 3 transportation sector by, among other things, reaching the State goal of increasing the adoption  
 4 of electric vehicles in Illinois to 1,000,000 by 2030, as set forth in the Illinois Climate and  
 5 Equitable Jobs Act. *See* 20 ILCS 627/45(a)(1).

6  
 7 6. Like many states, the NEVI Formula Program established in the IIJA plays a  
 8 critical role in Illinois' ability to transition to electrification of vehicles. *See* IIJA, Pub. L. No.  
 9 117-58, 135 Stat. 429 (2021).

10 7. The IIJA allocated \$5 billion over federal fiscal years 2022 - 2026 for the NEVI  
 11 Formula Program to fund strategic deployment of electric vehicle ("EV") charging  
 12 infrastructure. The Federal Highway Administration ("FHWA") administers the NEVI  
 13 Formula Program. To access the share of funds apportioned to them, each state is required to  
 14 submit a State Electric Vehicle Infrastructure Deployment Plan ("State Plan") for each fiscal  
 15 year describing how the State intends to use its NEVI Formula Program funds.

16  
 17 8. The IIJA details the process for the Secretary of Transportation to withhold or  
 18 withdraw funds from a State, which she is only authorized to do if the State fails to submit a  
 19 plan or fails to take action to carry out its plan. The IIJA also describes how funds should be  
 20 used if withheld or withdrawn from a state.

21 9. Illinois prepared and provided to the FHWA its State Plans for fiscal years 2022-  
 22 2025 describing how it intended to use its share of funds to carry out the NEVI Formula  
 23 Program. The plans were submitted on the deadlines established by the Secretary, August 1,  
 24 2022, August 1, 2023, and September 1, 2024. They detail the State's approach to expending  
 25 NEVI Formula Program funds to build out Illinois' electric vehicle charging network.  
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1           10.     The FHWA approved Illinois' State Plans in letters dated September 27, 2022,  
2     September 29, 2023, and November 15, 2024 ("State Plan Approvals"). Each letter explicitly  
3     stated that "[w]ith this approval, Fiscal Year . . . funds are now available to Illinois for  
4     obligation."

5           11.     Combined, these FHWA approvals made \$117 million of funds available to  
6     Illinois for obligation.

7           12.     IDOT is taking action to carry out its approved state plans. IDOT has to date  
8     awarded \$25.4 million to grantees for approved projects and has contractual obligations with  
9     grantees totaling \$25.4 million. IDOT is currently evaluating applications from a Notice of  
10    Funding Opportunity that closed on January 31, 2025, and intends to award up to \$24 million  
11    in order to complete full build out of chargers along Illinois' Alternative Fuel Corridors.  
12    Additionally, IDOT is in final negotiations with a consultant to assist with construction  
13    oversight of awarded and obligated NEVI Formula Program funded projects, and the  
14    Department will need to obligate additional NEVI Formula Program funds to pay for these  
15    consulting services.  
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17           13.     On January 20, 2025, President Trump issued an Executive Order entitled  
18    *Unleashing American Energy* ("EO"). Section 7(a) of the EO directs all agencies to  
19    "immediately pause disbursement of funds appropriated through" the IIJA, "including but not  
20    limited to funds for electric vehicles charging stations made available through the [NEVI  
21    Formula] Program."  
22

23           14.     On February 6, 2025, IDOT received a letter from Emily Biondi, the Associate  
24    Administrator for the Office of Planning, Environment and Realty in the FHWA, with the  
25    subject "Suspending Approval of State Electric Vehicle Infrastructure Deployment Plans."  
26

1           15.     The February 6 letter informed State Transportation Directors that the new  
2 leadership of DOT “has decided to review the policies underlying the implementation of the  
3 NEVI Formula Program” and was therefore rescinding all NEVI Formula Program Guidance,  
4 which is required under the IIJA within 90 days of enactment.

5           16.     The February 6 letter claimed that FHWA “aims to have an updated draft NEVI  
6 Formal Program Guidance published for public comment in the spring” and that the Agency  
7 “will publish updated final NEVI Formula Guidance that responds to comments received” after  
8 the public comment period has closed.  
9

10          17.     Finally, the FHWA informed IDOT that it would be “immediately suspending  
11 the approval of all State Electric Vehicle Infrastructure Deployment plans for all fiscal years”  
12 and prohibiting future obligations “under the NEVI Formula Program until the updated final  
13 NEVI Formula Program Guidance is issued and new State plans are submitted and approved.”

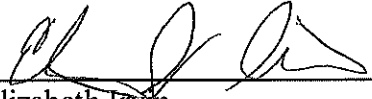
14          18.     The February 6 letter therefore made clear that the Secretary is withholding  
15 access to the \$117 million which had been made available to Illinois through the FHWA’s  
16 State Plan Approvals. FHWA has further given IDOT no sense of how it can apply for the  
17 remaining \$31.6 million it expected to receive for FY 2026.  
18

19          19.     IDOT relied and acted upon the FHWA’s statutory obligation to provide NEVI  
20 Illinois with its dedicated share of NEVI Formula Program funding consistent with the IIJA’s  
21 requirements. NEVI Formula Program funding was intended to cover IDOT’s contractual  
22 obligations.

23          20.     The FHWA’s withholding of Illinois’ NEVI Formula Program funds will also  
24 hinder IDOT from achieving Illinois’ statutory goal of reducing fossil fuel use, decreasing  
25 carbon emissions, and achieving 1,000,000 electric vehicles on the road in Illinois by 2030.  
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1  
2 I declare under penalty of perjury under the laws of the United States that, to the best of  
3 my knowledge, the foregoing is true and correct.  
4

5 DATED this fifth day of May, 2025, at Boulder, Colorado.

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8 Elizabeth Irvin  
69 West Washington Street Suite 2100  
Chicago IL 60602  
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